

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

**NATIONAL ASSOCIATION FOR
GUN RIGHTS, and FOSTER ALLEN
HAINES,**

Plaintiffs,

V.

MICHELLE LUJAN GRISHAM, in her official capacity as the Governor of the State of New Mexico, and **PATRICK M. ALLEN**, in his official capacity as the Secretary of the New Mexico Department of Health,

Defendants.

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CASE NO. _____

DECLARATION OF RYAN FLUGAUR

1. My name is Ryan Flugaur. I am over the age of 18 and have personal knowledge of the matters set forth in this Declaration.
2. I am the Vice President of the National Association for Gun Rights (“NAGR”).
3. Secretary Allen issued “Public Health Emergency Order Imposing Temporary Firearm Restrictions, Drug Monitoring and Other Public Safety Measures” dated September 8, 2023 (the “PHE Order”). The PHE Order states in relevant part (which portion shall be referred to herein as the “Carry Prohibition”):

(1) No person, other than a law enforcement officer or licensed security officer, shall possess a firearm, as defined in NMSA 1978, Section 30-7-4.1 , either openly or concealed, within cities or counties averaging 1,000 or more

violent crimes per 100,000 residents per year since 2021 according to Federal Bureau of Investigation's Uniform Crime Reporting Program AND more than 90 firearm-related emergency department visits per 100,000 residents from July 2022 to June 2023 according to the New Mexico Department of Public Health, except:

- A. On private property owned or immediately controlled by the person;
- B. On private property that is not open to the public with the express permission of the person who owns or immediately controls such property;
- C. While on the premises of a licensed firearms dealer or gunsmith for the purpose of lawful transfer or repair of a firearm;
- D. While engaged in the legal use of a firearm at a properly licensed firing range or sport shooting competition venue; or
- E. While traveling to or from a location listed in Paragraphs (1) [*sic*] through (4) [*sic*] of this section; provided that the firearm is in a locked container or locked with a firearm safety device that renders the firearm inoperable, such as a trigger lock.

4. For purposes of this Declaration, the following shall be referred to as "Plaintiffs' Proposed Conduct": (a) possessing firearms in public for lawful purposes, including self-defense; and (b) going to private businesses open to the public while lawfully carrying a firearm for lawful purposes, including self-defense, without first obtaining the express affirmative permission of the person who owns the property.

5. NAGR is a nonprofit organization that seeks to defend the right of all law-abiding individuals to keep and bear arms. NAGR has members who reside in New Mexico and in areas affected by the Carry Prohibition. NAGR represents the interests of these members. Specifically, NAGR represents the interests of those who are affected by the Carry Prohibition's blatantly unconstitutional prohibition

on Plaintiffs' Protected Conduct in areas affected by the Carry Prohibition. It is these members' present intention and desire immediately to engage in Plaintiffs' Protected Conduct in these areas. These members are precluded from doing so by the Carry Prohibition, which deprives them of their fundamental right to keep and bear arms for lawful purposes protected by the Second Amendment.

I, Ryan Flugaur, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that I have reviewed the foregoing, that I am competent to testify in this matter, and that the facts contained therein are true and correct.



Ryan Flugaur

Date: September 9, 2023